

REMARKS

CLAIMS 1, 4-6, 9-11, 22, 25, 28-29, 32-33, 36, 39, 42

Claims 1, 4-6, 9-11, 22, 25, 28-29, 32-33, 36, 39, and 42 stand rejected under 35 U.S.C. §102 as allegedly anticipated by U.S. Pat. No. 6,701,342 to Bartz et al. The rejections are respectfully traversed.

A rejection under §102 is traversed if the claims recite one or more features, elements, steps or limitations that are not found in the cited reference. Stated another way, the cited reference must teach or disclose each and every feature of the claims, arranged as in the claims. *See Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983). The claims of the present application contain features not found in the reference, and therefore the rejection is overcome.

In particular, each of the independent claims recites:

generating, at a server, interface data for defining service level agreements; and

communicating the interface data to a client that is remote from said server,

wherein the interface data allows a user to define tests for monitoring the level of service that is being provided by the service provider by displaying a graphical user interface at the client;

wherein the graphical user interface comprises a first button that allows the user to add a round trip response SLA definition, a first box that allows the user to select a polling interval from a set of polling intervals, a second box that allows the user to select a probe type from a set of probe types, a source device box that allows the user to select one or more source devices from among a list of available devices generated by the server, a target device box that allows the user to specify one or more target devices either by address or by selecting from a device inventory, and one or more threshold boxes that allow the user to enter a set of threshold values for which the round-trip response should not exceed;

wherein the interface data causes updating the first information with changes that have been received through the graphical user interface.

Support is found in original claims 4, 9, 28, and 32; FIG. 3C, 3D, 3E; and pages 47-54 of the description (describing FIG. 3C, 3D, 3E, and other features).

Bartz has no description of a graphical user interface that provides the recited features. In particular, Bartz fails to disclose a set of polling intervals, a second box that allows the user to select a probe type from a set of probe types, a source device box that allows the user to select one or more source devices from among a list of available devices generated by the server, a target device box that allows the user to specify one or more target devices either by address or by selecting from a device inventory, and one or more threshold boxes that allow the user to enter a set of threshold values. Bartz also does not provide for automatically updating the first information (such as client XML representing an SLC and SLA) based on changes entered in a user interface, as claimed.

New claims 45-46 reflect aspects of the process of FIG. 4. Support is found in FIG. 4 and the text at pages 19-20 of the description. Bartz fails to provide a way to automatically distribute updated tests to selected source devices after receiving changes to an SLA definition through a user interface.

In addressing original claims 4, 9, 28, and 32, the Office action relied on Bartz col. 4, lines 18-46, and lines 6-67. (Page 4, paragraph b of the Office action appears to have typographical errors in the citation of “col. 46-67” and the statement “fails to teach”.) However, these portions of Bartz merely refer vaguely to some form of “Firehunter” tool and do not describe the features that are specifically recited in independent claims 1, 6, 10, and 11. Therefore, Bartz column 4 cannot anticipate the amended claims.

Further, while Bartz col. 4 lines 18-67 states that agents can be used for SLA measurement and “agents comprise tests,” nothing in that passage describes communicating interface data that **allows users to define tests for monitoring** the level of service that is being provided by the service provider. Having agents that implement tests is not the same as allowing users to **define** tests themselves. Bartz is not concerned with interfacing to external users for the purpose of defining tests. The “Response to Arguments” portion of the Office action **does not address this point**.

For this reason, each of the independent claims 1, 6, 10 and 11 recites subject matter not found in Bartz. Each of the dependent claims 4, 5, 9, 22, 25, 28-29, 32-33, 36, 39, and 42 depends directly or indirectly from one of claims 1, 6, 10, and 11 and therefore the dependent

claims include the feature discussed above by dependency. Accordingly, each of claims 1, 4-6, 9-11, 22, 25, 28-29, 32-33, 36, 39, 42 is patentable over Bartz.

Reconsideration is respectfully requested.

#### CLAIMS 3, 8, 27, 31—BARTZ IN VIEW OF DATTATRI

Claims 3, 8, 27, and 31 stand rejected under 35 U.S.C. §103 as allegedly unpatentable over Bartz in view of Dattatri et al. The rejections are respectfully traversed.

Each of claims 3, 8, 27 and 31 depends from one of the independent claims discussed above and incorporates, by dependency, the features added by amendment and discussed above. Dattatri et al. does not cure the deficiencies of Bartz with respect to these features. Therefore, any combination of Bartz with Dattatri et al. cannot provide the complete subject matter that is recited in claims 3, 8, 27 and 31, and therefore the §103 rejection is unsupported. Reconsideration is respectfully requested.

#### CLAIMS 23, 37, 40, 43—BARTZ IN VIEW OF CARLEY

Claims 23, 37, 40, and 43 stand rejected under 35 U.S.C. §103 as allegedly unpatentable over Bartz in view of Carley et al. The rejections are respectfully traversed.

Each of claims 23, 37, 40, and 43 depends from one of the independent claims discussed above and incorporates, by dependency, the features added by amendment and discussed above. Carley et al. does not cure the deficiencies of Bartz with respect to this feature. Therefore, any combination of Bartz with Carley et al. cannot provide the complete subject matter that is recited in claims 23, 37, 40, and 43, and therefore the §103 rejection is unsupported. Reconsideration is respectfully requested.

#### CONCLUSION

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application. For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

To the extent necessary to make this reply timely filed, the Applicant petitions for an extension of time under 37 C.F.R. § 1.136. If any applicable fee is missing or insufficient,

throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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